



# Department of Defense

## DIRECTIVE

May 19, 1988

NUMBER 1325.4

ASD (FM&P)

**SUBJECT:** Confinement of Military Prisoners and Administration of Military Correctional Programs and Facilities

- References:**
- (a) DoD Instruction 1325.4, "Treatment of Military Prisoners and Administration of Military Correction Facilities," October 7, 1968 (hereby canceled)
  - (b) Title 10, United States Code, Chapter 47, "Uniform Code of Military Justice," Sections 801-940
  - (c) Title 10, United States Code, Chapter 48, "Military Correctional Facilities," Sections 951-956
  - (d) Manual for Courts-Martial, United States, 1984
  - (e) DoD Directive 5100.69, "DoD Program for Prisoners of War and Other Detainees (Short Title: DoD Enemy PW/Detainees Program)," December 27, 1972
  - (f) DoD Directive 1330.5, "American National Red Cross," August 16, 1969

### A. REISSUANCE AND PURPOSE

This Directive reissues and updates reference (a) and implements parts of references (b) through (d) by establishing uniform DoD policies and procedures governing the administration and operation of military correctional programs and facilities.

### B. APPLICABILITY AND SCOPE

1. This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), and the Unified and Specified **Commands** (hereafter collectively referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, **Marine Corps**, and, by agreement with the Department of Transportation (DoT), the Coast Guard.

2. This Directive pertains to:

- a. The operation of places of confinement worldwide.
- b. The confinement of persons for offenses against reference (b) who have been sentenced by court-martial or are in pretrial confinement pending court-martial.
- c. U. S. military personnel confined under a status of forces agreement or other international agreement.

### C. POLICY

1. The objective of this Directive is to promote uniformity within and among the Military Services in the treatment of prisoners, the operation and administration of correctional facilities and programs, and the consideration of prisoners for return to duty, clemency, or parole.

2." Confinement of military prisoners shall be administered on a corrective basis.

3. No member of the U. S. Armed Forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the U.S. Armed Forces (Uniform Code of Military Justice (UCMJ), Article 12, reference (b)). Prisoners of War and other detainees shall be treated in accordance with the DoD Enemy PW/Detainees Program, DoD Directive 5100.69 (reference (e)).

4. Each Military Service shall operate a return-to-duty program to prepare selected personnel for return to productive service.

5. In executing their clemency and parole authority, the Secretaries of the Military Departments may:

a. Adjust significant disparities in approved sentences.

b. Modify approved sentences when consistent with the maintenance of good order and discipline and in the best interests of society and the prisoner.

c. Consider eligible prisoners for release from confinement under parole supervision at the earliest opportunity consistent with the ends of justice.

d. Restore to duty or reenlist individuals convicted by a court-martial who have satisfactorily demonstrated potential for military service.

6. For economy and efficient administration, confinement facilities of any Military Service shall be used for the confinement of prisoners of other Military Services when operating conditions and available facilities permit. Prisoners confined in military confinement facilities shall be subject to the rules and regulations of the confining facility regardless of the prisoners' Service affiliation.

### D. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall:

a. Ensure the programs for education, training, rehabilitation, and the welfare of military prisoners are consistent with this Directive.

b. Serve as the focal point within OSD for confinement matters and correctional programs.

c. Appoint a senior staff member to chair the Department of Defense Corrections Council.

2. The Secretaries of the Military Departments shall:

a. Issue regulations on the confinement of military prisoners and administration of military corrections' programs and facilities that are consistent with this Directive.

b. Designate a senior officer for each Military Service under his or her jurisdiction to administer military confinement facilities established under 10 U.S.C., Chapter 48 (reference (c)).

c. Provide necessary military confinement facilities.

d. Ensure that their Departments are represented on the Department of Defense Corrections Council.

e. Provide programs for education, training, rehabilitation, and the welfare of military prisoners consistent with this Directive.

f. Provide return-to-duty programs for selected prisoners.

g. Provide clemency and parole programs in accordance with this Directive and 10 U.S.C., Chapter 47; 10 U.S.C., Chapter 48; and the Manual for Courts-Martial, United States, 1984 (references (b) through (d)).

E. PROCEDURES

The procedures for the administration of correctional programs and operation of correctional facilities are prescribed in enclosure 1.

F. DEPARTMENT OF DEFENSE CORRECTIONS COUNCIL

1. Establishment, Purpose, and Responsibilities. The Department of Defense Corrections Council is established to provide a regular forum for the interchange of information and the consideration of corrections' policy. The Council shall be responsible for the continuing review of this Directive and Service implementing regulations to promote uniformity in the corrections' program consistent with the needs of the Military Services.

2. Membership. The Council shall consist of members representing each Military Service, the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)), and the DoD General Counsel (DoD, GC). Each Military Service shall designate two members in grades not higher than O-6 or GS-15. One must be serving in a position with primary responsibility for the corrections function and the other with a primary responsibility for parole and clemency matters.

3. Functions. The Council may consider all matters involving military correctional programs and facilities. Specific issues or problems may be submitted to the Council for consideration by a council member or by the Military Services' Secretaries. The Council shall attempt to resolve inter-Service differences and achieve uniformity through voluntary adjustments in policy or practice by the Service(s) concerned. Policy matters that require resolution at the OSD level shall be submitted to ASD(FM&P) for decision. Proposed changes to this Directive must be coordinated with affected DoD Components before publication.

4. Meetings. The Council shall meet quarterly or at the call of the ASD(FM&P) member. Any member may request a special meeting to consider an urgent matter.

5. Administration. The ASD(FM&P) member shall chair the Council and be responsible for setting meeting dates, maintaining the agenda and summary minutes of the meetings, and other administrative matters that may be required.

G. INFORMATION REQUIREMENTS

The Military Departments shall submit semiannual confinement reports to the ASD(FM&P) no later than June 30 and December 31, for the first and second halves of each fiscal year, respectively. The format and required information are prescribed in enclosure 2. This reporting requirement is assigned Report Control Symbol FM&P(SA)1792.

H. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective on the first day of the third month following the date of signature. The Secretaries of the Military Departments shall forward two copies of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 30 days of the effective date.



William H. Taft, IV  
Deputy Secretary of Defense

Enclosures - 2

1. Procedures for the Administration of Correctional Programs and Operation of Correctional Facilities
2. Sample Format of a Semiannual Confinement Report

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A. CLASSIFICATION OF FACILITIES

To promote effective and efficient corrections' programs, the Military Services shall classify facilities based on the following criteria: prisoner offenses; custody requirements; length of sentences; sex; and the availability of treatment, training, and work programs. The confining authority shall normally place prisoners in the custody of the commanding officer of the nearest appropriate military correctional facility. When a military facility is not reasonably available, prisoners may be confined locally in civilian facilities used by the U.S. Marshal's Service. Every effort should be made to ensure that offenders are promptly transferred to an appropriate facility as soon as the convening authority has taken action on the sentence. **Members** may be transferred to the appropriate facility before the convening authority's action when required by the needs of the Service.

B. CONFINEMENT OF FEMALES

1. Existing rules and regulations regarding the confinement of male personnel apply to female personnel.

2. The Military Services shall provide facilities for the confinement of female prisoners. Male and female prisoners may be confined in the same facility; however, females shall be separated from male prisoners in sleeping and personal hygiene areas.

3. Prisoners shall not be searched by a member of the opposite sex, except in emergency situations.

C. TRANSFER TO FEDERAL INSTITUTIONS

1. Prisoners whose sentence(s) has been approved by the convening authority may be transferred to Federal Bureau of Prisons' facilities. Normally, a prisoner will not be transferred to a Federal institution unless his or her approved sentence includes dismissal or a punitive discharge, or the prisoner is considered by military authorities to be unfit for further honorable service.

2. Factors for determining whether to transfer a prisoner to a Federal penitentiary include: the nature or gravity of the offenses of which the prisoner was convicted, his or her confinement record and personality characteristics, and other special requirements indicating a need for confinement or treatment in a Federal institution.

3. Prisoners proposed for transfer to a Federal Bureau of Prisons' facility for purposes of inpatient psychiatric treatment shall be afforded procedural due process including notice, representation by appointed military counsel certified as a judge advocate under Article 27(b)(2), UCMJ, 10 U.S.C. §827(b)(2) (reference (b)), and the opportunity for a hearing before an independent presiding officer who is designated as a military judge under Article 26(b), UCMJ, 10 U.S.C. §826(b) (reference (b)). (See Vitek v. Jones, 445 U.S. 480 (1980).)

4. Prisoners transferred to Federal correctional institutions who later are determined to possess the potential for future value to the Military Service may be returned to a military confinement facility for possible return to military duty.

D. PROGRAMS IN MILITARY CONFINEMENT FACILITIES

1. Programs of regular work, training, and motivational activities shall be conducted to increase prisoners' usefulness, prevent idleness, aid in alleviating custodial problems, and prepare prisoners for release from confinement. Prisoner participation in such programs shall be based on individual status (pretrial or adjudged), needs, capabilities, and opportunities for successful adjustment. So that programs may be tailored to meet individual needs and facility resources, rigid minimum hour requirements shall be avoided. The combined time spent in training and employment shall not be less than that required of personnel in a regular duty status.

2. **Programs** at military confinement facilities shall normally consist of the following:

a. All physically qualified prisoners -- except those in administrative segregation, disciplinary segregation, or maximum custody -- shall be required to engage in a supervised physical training program consisting of a minimum of 3 hours per week.

b. Prisoners considered to have potential for return to duty shall receive military training and instruction. The scope of the program shall be determined by available resources, facilities, and personnel. The program for restorable prisoners whose sentences include punitive discharges should include correctional evaluations and opportunities for prisoners to improve potential for return to duty. Such programs may be carried out in facilities operated by each Military Service for its own personnel and should be based on the needs of that Service. All prisoners shall be evaluated under Service regulations for return-to-duty programs.

c. The program for nonrestorable prisoners should include a reasonable opportunity for self-improvement through educational and vocational training, and provide useful work to the Government. The scope of the correctional program shall be determined by the limitations of available facilities, personnel, and resources.

d. All prisoners shall be encouraged to participate in scheduled educational programs commensurate with their needs and abilities.

e. Vocational training shall be encouraged within the capabilities of the confinement facility.

f. Installation parolees and prisoners in minimum and medium custody grades may be temporarily released to their units for training in preparation for and participation in field training and field training exercises.

3. All physically qualified prisoners, except those requiring segregation for disciplinary or administrative reasons, shall be required to engage in work projects consistent with the prisoners' status and abilities. Prisoners not undergoing return-to-duty training shall normally be assigned to work projects that are intended to prepare them for return to civilian life.

a. Consistent with custodial requirements, on-the-job training is highly desirable. Such assignments shall be in the prisoners' military occupational skills or involve tasks that will qualify them for new occupations.

b. The development of work projects to be conducted within the facility is necessary to provide satisfactory employment for prisoners who cannot be assigned work outside the facility.

4. The following applies to Federal Prison Industries, Incorporated:

a. An expeditious, economical, and effective method of establishing industries in major military confinement facilities is to bring them within the financial and managerial jurisdiction of the Federal Prison Industries, Incorporated, which is empowered by law to:

(1) Provide facilities.

(2) Establish industries.

(3) Employ, train, and supervise prisoners under the custody and control of the commanding officer.

(4) Dispose of the product for Government use.

b. This program shall give nonrestorable prisoners maximum opportunity to acquire occupational skills. Considering the small percentage of military personnel in confinement, the competition offered to private industry and labor by this program is insignificant compared to the correctional treatment of prisoners whose custody, treatment, and reformation are direct responsibilities of the Military Services.

c. Commanding officers of small confinement facilities should consider local alternatives to prison industries when the Federal Prison Industries, Incorporated, program cannot be provided.

#### E. MORALE AND RECREATION ACTIVITIES

Morale and recreation activities are necessary for the physical and mental well-being of prisoners and shall be provided at all confinement facilities.

1. A well-balanced program could include some or all of the following: fiction and nonfiction books, periodicals, newspapers, motion pictures, radio, television, physical recreation facilities, competitive sports, and other special programs and appropriate events.

2. When practicable, support from appropriated funds and contributions from central nonappropriated morale and welfare funds may be supplemented by funds generated by prisoner work projects when approved by the Military Service concerned.



F. RELIGIOUS PROGRAMS AND ACTIVITIES

Religious services of the various faiths represented among the prisoner population shall be offered consistent with security and administrative control. Prisoners shall be assured of their right to practice their religion within the resources available from assigned and supporting chaplains. Religious and spiritual programs shall include a broad spectrum of activities to include: worship services, sacramental ministry, pastoral counseling, religious education, spiritual growth, prayer and meditation, and religious retreats.

G. ADMINISTRATIVE CONTROL AND DISCIPLINARY MEASURES

In addition to, or in place of, punishments prescribed by law for persons under military jurisdiction, commanding officers of confinement facilities are authorized to impose administrative disciplinary measures on persons confined under their jurisdiction, and segregate and restrict the movement and activity of such persons as may be necessary for their control and the safe operation of the confinement facility. Segregation measures shall be uniform for all Military Services.

1. Administrative Control

a. Administrative segregation, separate quartering, or restriction of the movement and activity of prisoners is authorized for purposes of control, to prevent injury to the prisoner or others, maintain proper health standards, and other purposes necessary for safe administration of the confinement facility.

b. Prisoners in segregation shall be kept under close custodial supervision. Special precautions shall be taken in the preparation, equipping, inspection, and supervision of segregation quarters to prevent escapes, self-injury, or other serious incidents or unhealthy conditions.

c. A hearing shall be conducted concerning the need for continued administrative segregation of the prisoner. The hearing shall be conducted by a member of the facility staff, appointed by the facility commander, to review and make recommendations to the commander within 72 hours of the prisoners' entry into segregation.

d. Medical staff personnel shall evaluate each prisoner being entered into administrative or disciplinary segregation and, thereafter, shall visit at least once during every 72-hour period to observe the prisoners' health and the sanitary conditions of the confinement facility. The commanding officer shall be immediately informed of all unhealthy or unsanitary conditions. Prisoners in segregation shall also be visited daily by the custodial officer or by his or her representative.

2. Administrative Disciplinary Measures

a. Commanding officers of confinement facilities are authorized to impose one or more of the following administrative disciplinary measures on persons confined under their jurisdiction for misconduct or infraction of regulations:

- (1) Reprimand or warning.
- (2) Deprivation of one or more privileges.
- (3) Extra duty.
- (4) Reduction of custody grade or classification.
- (5) Segregation on regular or restricted diet.
- (6) Forfeiture or suspension of earned good conduct time.

b. Segregation on a restricted diet shall not be imposed unless a medical officer certifies in writing that a deterioration of the prisoner's health is not anticipated as a result of such action.

c. The imposition of administrative disciplinary measures shall be subject to approval of the commanding officer of the confinement facility. To carry out this responsibility, discipline and adjustment boards may be established to consider and recommend to the commanding officer action to be taken against prisoners for misconduct or infractions of regulations and to consider prisoner adjustment problems.

#### H. SENTENCE OPERATION

The following provisions apply to sentences adjudged by courts-martial and other military tribunals of the Department of Defense.

1. Effective date of sentence. A sentence becomes legally effective and the sentence to confinement begins to run as provided by statute or by appropriate authority.

2. Continuity of sentence. A sentence to confinement is continuous until the term expires and is interrupted only by periods of time during which prisoners are not entitled to be credited with serving their sentences. (See subsection J.8., below.)

3. Multiple sentences. When a prisoner serving a sentence adjudged by a court-martial is later convicted of another offense and sentenced to a term of confinement, the later sentence to confinement, although not yet ordered into execution by the convening authority, may be carried out as of the date adjudged and may interrupt the running of a prior sentence.

4. Aggregation of sentence. When a prisoner has two or more sentences to confinement standing, the several sentences shall be aggregated to determine the rate of earning good conduct time, parole eligibility date, and any other necessary dates. The remainder of the term of confinement that a parole or probation violator is serving shall not be aggregated with a term of confinement adjudged by a later sentence to determine the rate of earning good conduct time, but shall be considered in the aggregate to determine the date of eligibility for reparole and restoration to duty.

5. Computation of sentences. Procedures employed in the computation of sentences shall conform to those established by the Department of Justice (DoJ) for Federal prisoners unless they conflict with this Directive.

I. ABATEMENT OF CONFINEMENT

1. Rate of Earning

a. Good Conduct Time

(1) Each prisoner serving a sentence(s) imposed by a court-martial or other military tribunal for a definite term or terms of confinement, other than for life, shall, except as provided herein, be credited monthly with a deduction from the term of sentence(s) beginning with the day that the sentence begins. Good conduct time shall be credited at one of the following rates:

(a) Five days for each month of the sentence, if the sentence is less than 1 year.

(b) Six days for each month of the sentence, if the sentence is at least 1 year but less than 3 years.

(c) Seven days for each month of the sentence, if the sentence is at least 3 years but less than 5 years.

(d) Eight days for each month of the sentence, if the sentence is at least 5 years but less than 10 years.

(e) Ten days for each month of the sentence, if the sentence is 10 years or more.

(2) The Military Services may elect to calculate an anticipated release date at the beginning of a prisoner's sentence to confinement based on the regular good conduct time that could be earned for the entire period of the sentence.

(3) A parole or probation violator, upon return to confinement, shall earn good conduct time at the rate applicable to the sentence in effect at the time of violation of parole or probation.

b. Extra Good Conduct Time. Prisoners may be allowed an additional reduction of their sentences for sustained exemplary effort in the areas of industries, work, education, conduct, or other activities or assignments specifically authorized by the Secretary of the Military Department concerned. Allowance of extra good conduct time shall be in addition to that granted for good conduct. Extra good conduct time should not be granted merely because a prisoner does what is expected. The rates at which extra good conduct time may be earned are as follows:

(1) During the first year, rates shall not exceed 3 days per month.

(2) For the second and later years, rates shall not exceed 5 days per month.

2. Forfeiture, Withholding, Waiver, and Restoration of Earned Good Conduct Time

a. Good Conduct Time. If a prisoner violates the rules of the institution or commits any offense during confinement, all or any part of earned good conduct time may be forfeited. In addition, all good conduct allowances for the month in which the violation occurs may be withheld.

b. Extra Good Conduct Time. Extra good conduct time may be forfeited and withheld in the same manner as provided for good conduct time.

c. Parole. All prisoners who accept parole shall waive all good conduct time and extra good conduct time earned up to the date of release on parole.

d. Restoration of Good Conduct Time and Extra Good Conduct Time. The commanding officer of a military confinement facility may restore all or part of the good conduct or extra good conduct time previously forfeited or withheld, including time withheld or forfeited at other institutions, except time waived upon acceptance of parole.

J. CLEMENCY, PAROLE, AND RESTORATION TO DUTY

1. General. Under 10 U.S.C., Chapter 48 (reference (c)), each Military Service Secretary has the authority, with respect to prisoners who were subject to the Secretary's authority during commission of their offenses, to:

a. Remit or suspend a portion or all of the unexecuted part of any sentence adjudged by a court-martial.

b. Restore to duty or reenlist selected individuals convicted by a court-martial.

c. Provide a system of parole for military prisoners.

2. Clemency and Parole Boards. The Secretary of each Military Department shall establish a Clemency and Parole Board to assist the Secretary in executing his or her clemency and parole authorities. The Clemency and Parole Boards shall consider eligible individuals, to include military prisoners in Federal or State confinement facilities, for clemency, parole, restoration to duty, and reenlistment. The Clemency and Parole Boards shall collect such data as may be necessary to execute their responsibilities. Clemency and Parole Boards shall have approval authority for all clemency, parole, restoration to duty, and reenlistment actions, except those for which approval authority has been expressly withheld by the Secretary concerned. The Clemency and Parole Boards of the Military Services shall strive for uniformity of operations consistent with individual Service needs. Clemency and Parole Board representatives shall meet at least semiannually to exchange views on clemency and parole philosophy, procedures, significant cases, and similar matters.

3. Clemency and Parole Eligibility. Clemency and Parole Boards shall normally consider an individual for clemency, parole, restoration to duty, or reenlistment when the court-martial convening authority has taken action on the sentence; the individual's case has been reviewed by a confinement facility disposition board or by an appropriate Federal correctional or probation official; and the individual meets the eligibility criteria. Individuals may waive consideration by Clemency and Parole Boards in accordance with instructions "issued by the Service Secretaries.

a. Clemency, Restoration, and Reenlistment

(1) When a prisoner's approved sentence includes no confinement or the approved sentence to confinement is less than 12 months, there shall be no consideration by the Clemency and Parole Board. Service Secretaries may direct that Clemency and Parole Boards consider these cases when the approved sentence includes a punitive discharge or dismissal.

(2) When a prisoner's approved sentence to confinement is as follows:

(a) Twelve months or more but less than 10 years, consideration by the Clemency and Parole Board shall not be more than 9 months from the date confinement began and at least annually thereafter.

(b) Ten years or more but less than 20 years, consideration by the Clemency and Parole Board shall not be more than 24 months from the date confinement began and at least annually thereafter.

(c) Twenty years or more but less than 30 years, consideration by the Clemency and Parole Board shall not be more than 3 years from the date confinement began and at least annually thereafter.

(d) Thirty years or more, including a sentence to confinement for life, consideration by the Clemency and Parole Board shall not be more than 5 years from the date confinement began and at least annually thereafter.

(3) Prisoners sentenced to death are ineligible for consideration.

(4) Except in the case of prisoners sentenced to death, an individual may be granted special consideration by the Clemency and Parole Board for clemency, restoration, or reenlistment, for cause.

(5) A prisoner released on parole shall be considered by the Clemency and Parole Board for clemency, restoration, and reenlistment 12 months after release on parole, and thereafter annually upon request, until expiration of the sentence. When a prisoner has been returned to military control as a parole violator, the prisoner's consideration for clemency, parole, restoration, and reenlistment shall normally be 12 months after the prisoner's return to military control and annually thereafter.

(6) When a prisoner is considered for parole under paragraph J.3.b., below, the Board may also consider the prisoner for clemency, and upon request, for restoration to duty or reenlistment.

b. Parole

(1) Clemency and Parole Boards shall consider a prisoner for release on parole when the prisoner first becomes eligible and annually thereafter. A prisoner is eligible for release on parole, when requested by the prisoner, as follows:

(a) When the prisoner has an approved sentence to an **unsuspended** punitive discharge or dismissal or has been administratively discharged or retired; and

(b) When the unsuspended sentence or aggregate sentence to confinement is 12 months or more and the prisoner has served one-third of his or her term of confinement, but in no case less than 6 months, or after having served 10 years of a sentence to confinement for 30 years or more or a sentence to life.

(2) A prisoner confined pursuant to a death sentence is ineligible for parole.

(3) A prisoner otherwise eligible for parole, with an approved sentence including a fine, with a provision for further confinement if the fine is not paid, shall be considered for parole by a Clemency and Parole Board based on the approved sentence to confinement. Confinement resulting from failure of the prisoner to pay a fine shall not be considered in computing eligibility for consideration by a Clemency and Parole Board.

(4) A prisoner with an approved sentence that includes a fine and no confinement, but with a provision for confinement if the fine is not paid, shall be considered for parole by a Clemency and Parole Board upon his *or* her imprisonment if the fine is not paid, if otherwise eligible for parole under subparagraph J.3.b.(1), above.

(5) Good conduct time and any other sentence reductions shall be excluded in computing eligibility for parole.

(6) Unless an earlier parole consideration of the prisoner is directed by the Secretary concerned, requested by the **commander** of a military correctional facility, or initiated by the Clemency and Parole Board on its own motion, the Board shall not reconsider a prisoner for parole whose parole has been revoked until the prisoner has served 12 months in confinement subsequent to return to custody.

(7) When exceptional circumstances exist or for other good cause, a Clemency and Parole Board may waive any prisoner's parole eligibility requirement with the exception of subparagraph J.3.b.(2), above.

4. Clemency and Parole Considerations. When applicable, a Clemency and Parole Board shall consider the following criteria:

- a. The nature and the circumstances of the offenses.
- b. The individual's military and civilian history.

- c. The individual's confinement record.
- d. The personal characteristics of the individual to include age, education, marital and family status, and psychological profile.
- e. The impact of the offense upon a victim.
- f. The protection and welfare of society.
- g. The need for good order and discipline within the Service.
- h. Other matters as appropriate.

5. Conditions for Release on Parole

- a. Before a prisoner is released on parole, the prisoner shall be required to submit a parole plan and agree in writing to abide by that plan.
- b. The parole plan shall include, at a minimum, a residence requirement stating where and with whom the parolee will live and, except in the case of a medically disabled prisoner, a requirement that the prisoner have either guaranteed employment, an offer of effective assistance to obtain employment, or acceptance in a bona fide educational or vocational program.
- c. A Clemency and Parole Board may establish such conditions *on* release as it considers reasonable and appropriate, such as the requirement to begin or continue treatment for alcohol or substance abuse.
- d. Parole may be granted until the expiration of the full sentence regardless of good conduct time or other sentence reductions or for a lesser period of time as determined by a Clemency and Parole Board.

6. Parole Denial and Appeal

- a. A prisoner who is denied parole shall be provided written notification of the reasons for that denial.
- b. A prisoner who is denied parole may submit a parole appeal within 30 calendar days of notification of the denial. The final decision on parole appeals shall be made by the Secretary concerned or a designee. No further appeal is authorized.

7. Parole Revocation

- a. Standard. A parolee shall remain on parole provided that he *or* she complies with the conditions of parole. A determination by a Clemency and Parole Board to revoke parole shall be supported by a preponderance of the evidence that the parolee has violated a condition of parole and that the violation warrants parole revocation. The fact that a parolee has neither committed a criminal offense nor been convicted of committing a criminal offense does not prevent a decision to revoke parole.

b. Suspension of Parole. Upon receipt of information that a parolee may have violated the conditions of parole, a Clemency and Parole Board may suspend the parole. The Board may also order the parolee's return to military custody pending resolution of the alleged violation.

c. Preliminary Interview. When the prisoner's parole has been suspended, a preliminary interview shall be held to determine whether probable cause exists to establish that the parolee violated a condition of parole. A new civilian conviction for an offense for which confinement is authorized shall suffice as probable cause and a preliminary interview may be waived.

(1) The preliminary interview shall **normally** be conducted by a neutral and detached officer at or near the place of the alleged parole violation.

(2) The parolee shall be provided written notice of the preliminary interview, including the purpose of that interview.

(3) The parolee shall be given an opportunity to inspect the evidence upon which the interview is based and an opportunity to be heard and to present relevant matters. Witnesses called by the parolee shall be at no expense to the Government.

(4) The parolee may be represented at the preliminary interview by an attorney at no expense to the Government. The role of an attorney at a **preliminary interview** shall be limited in accordance with subparagraph J.7.d. (7), below.

d. Parole Violation Hearing. When the officer conducting the preliminary interview finds probable cause to believe that the parolee violated a condition of parole, the Board may order a parole **violation** hearing. The **violation** hearing shall be conducted before a prisoner's parole is revoked. The purpose of the violation hearing is to determine whether the parolee has violated a condition of parole and, if so, whether the parole should be revoked.

(1) The parole violation hearing shall normally be held at or near the place of the alleged violation. When the parolee has been returned to a military confinement facility or is confined by civil authorities, the parole violation hearing may be held at the place of confinement.

(2) A Clemency and Parole Board shall appoint a hearing officer or panel to conduct a parole violation hearing. The hearing officer or panel shall be neutral and need not be, or include, a judicial officer or attorney.

(3) The parolee shall be given a written notice of the violation hearing. The notice shall inform the parolee of the alleged violation, the purpose of the parole violation hearing, the evidence upon which the parole violation hearing is based, the parolee's rights at the parole violation hearing, and the options available to the Clemency and Parole Board.

(4) Evidence upon which a finding of violation may be based shall be disclosed to the parolee at least 10 days before the parole violation hearing.



(5) The scope of a parole violation hearing shall be limited to the examination of evidence of an alleged parole violation, relevant questioning of witnesses, pertinent statements as to an alleged parole violation, and whether the parole should be revoked.

(6) The parolee may present witnesses and documentary evidence, at no expense to the Government, in his or her behalf and may cross-examine adverse witnesses subject to limitations imposed by the hearing officer or panel for good cause. The hearing officer or panel may limit or exclude any irrelevant or repetitious witness, statement, question, or documentary evidence.

(7) The parolee may be represented at a parole violation hearing by an attorney or representative of his or her choice at no cost to the Government. When requested by the parolee, a military attorney shall be provided; however, the parolee has no right to a military attorney of his or her choice. The role of any representative or attorney shall be limited to the examination of witnesses, presentation of evidence, and the offering of a statement on the parolee's behalf as to whether parole should be revoked. Challenges to the parole violation hearing proceedings shall not be permitted. The hearing officer or panel may deny, for good cause, a parolee's choice of a nonattorney representative.

(8) Parole may be revoked based on a finding that a parolee has violated a condition of parole by failure to pay a fine or make restitution, only if the parolee willfully refused to pay the fine or make restitution when the parolee had sufficient resources; or the parolee failed to make sufficient bona fide efforts to obtain employment, borrow money, or legally acquire funds with which to pay the fine or make restitution. If the parolee could not pay the fine or make restitution, despite sufficient bona fide efforts to acquire the resources to do so, parole may be revoked only if no alternative disposition exists that will adequately serve the need for good order and discipline within the Armed Services and the correctional treatment of the parolee. (See Bearden v. Georgia, 461 U.S. 660 (1983); R.C.M. 1113(d)(3), MCM, 1984.)

e. Parole Revocation Authority. A Clemency and Parole Board shall take final action on the findings and recommendations of the officer or panel conducting a parole violation hearing.

8. Credit for Service of Sentence on Parole. A prisoner whose parole is revoked shall receive credit for time spent on parole except as follows:

a. If the parolee has been convicted of a new offense committed after being released on parole, which is punishable by a term of imprisonment, forfeiture of the time from the date of release to the date of suspension or revocation of that parole as a result of that new offense may be ordered by the Clemency and Parole Board and such forfeited time shall not be credited to service of the sentence. An actual term of confinement need not have been imposed for such conviction if the statute under which the parolee was convicted permits the trial court to impose any term of confinement. If such conviction occurs subsequent to a parole violation hearing, a Clemency and Parole Board may reconsider the forfeiture of time served on parole or other disposition, as appropriate.

b. If the Clemency and Parole Board finds that a parolee intentionally refused or failed to respond to any reasonable request, order, or **summons** of a Clemency and Parole Board or any agent thereof, including the assigned probation officer, or if a Clemency and Parole Board finds that the parolee was not ☐aterially in compliance with the conditions of parole, a Clemency and Parole Board may order the forfeiture of time during which the parolee so refused or failed to respond or comply.

9. Restoration and Reenlistment. Prisoners or parolees demonstrating potential for further military service shall be considered for restoration to duty or reenlistment.

a. Each Service shall provide a program, based on that Service's military training, for prisoners or parolees selected for restoration or reenlistment consideration. The program shall be separate from other correctional treatment programs. Prisoners and parolees shall be considered by the Secretary or the Secretary's designee for restoration to duty or reenlistment upon completion of the training program.

b. In selecting prisoners and parolees for restoration or reenlistment, consideration should be given to the parolee's demonstrated motivation for future honorable service; demonstrated ability to perform military duties in a creditable reamer; mental and physical fitness for continued service; and the impact of the parolee's restoration or reenlistment on the morale, good order, and discipline of the Service.

#### K. HEALTH AND COMFORT SUPPLIES

1. Supplies for personal hygiene, health, and comfort shall be provided to all military prisoners. The Military Services shall establish monetary or quantity limitations on these supplies.

2. Health and comfort supplies issued to persons in a nonpay status shall be paid for from appropriated funds. The cost of health and comfort supplies provided to persons in a pay status shall be charged against their pay accounts or paid from their personal funds.

#### L. USE OF PRISONERS ' PERSONAL FUNDS

The criteria for the use of a prisoners' personal funds are as stated below:

1. Personal funds of prisoners shall be held in safekeeping.

2. In addition to the authorized allowance for health and comfort items, prisoners shall be permitted to use personal funds for other items as authorized by the facility **commander**. Additional use of personal funds may be permitted for special purposes, such as purchase of educational materials, remittances to dependents, payment of debts, or attorney's fees.

3. The use of personal funds shall be subject to the approval of the **commanding** officer of the confinement facility.

M. PRISONERS ' CLOTHING ALLOWANCES

1. Distinctive outer clothing and clothing allowances may be prescribed for prisoners by the Military Service concerned. All prisoners shall wear the prisoner uniform *or* appropriate service work uniform.

2. If a distinctive prisoner uniform is prescribed, it shall be furnished at Government expense.

3. All necessary items of clothing for prisoners confined in a nonpay status shall be furnished at Government expense.

4. Prisoners shall be permitted to wear prescribed service uniforms during appearances before courts-martial or for other appropriate occasions.

5. Prisoners confined without essential clothing shall be provided suitable clothing, on a temporary loan basis, by the commanding officer of the confinement facility. Permanent issue items, except for distinctive prisoner clothing, shall be subject to pay checkage if the prisoner is in a pay status. In cases requiring the issue of items to members of other Services, reimbursement shall be made on a cross-Service basis.

N. GRATUITIES

Upon release from a military confinement facility, prisoners who are not returning to duty may be furnished suitable civilian seasonal attire in addition to such other grants and gratuities as may be authorized by law.

O. CORRESPONDENCE AND VISITS

Correspondence and visiting privileges shall be limited only by security requirements and available facilities.

1. Authorized Correspondence and Visitors. Limitations may be imposed on the number of persons who may be approved for the purpose of visiting or corresponding with a prisoner when necessary to maintain security or control. Correspondence with and visits by the prisoner's spouse, children, parents, brothers, and sisters should be approved unless disapproval is required in the interest of the prisoner's welfare. Other persons may be approved as correspondents and visitors when this appears to be in the best interest of the prisoner. Disapproval of correspondent and visitor requests shall be documented as a permanent part of the prisoner's file.

2. Visits. The number of length of visits and the number of persons permitted to visit at any one time may be restricted by operational routines or limitations of facilities. Normally, prisoners shall be permitted to receive biweekly visits of 1 or 2 hours duration on a nonwork day (weekends and holidays). Visits shall be supervised.

3. Hail. Incoming and outgoing mail, except as provided in paragraph 0.3.b., below, may be inspected to ensure that money, stamps, personal property, and valuables are brought under proper control and that contraband is not received.

a. Restrictions shall not be placed on the number of letters to and from authorized correspondents, except as necessary to maintain security and control or to prevent unreasonable individual excess or delays in processing mail. Mail privileges shall be as liberal as operating conditions permit.

b. The following types of correspondence shall not be subject to inspection, except when there is a reasonable basis for doubting the authenticity or identity of the sender:

(1) All correspondence between a prisoner and the President, Vice President, Members of Congress, Attorney General, the Judge Advocates General of the Military Departments or their representatives, and any military or civilian attorney of record.

(2) Initial correspondence with any attorney listed in professional or other directories for the purpose of establishing an attorney-client relationship.

(3) All correspondence between prisoners and clergy.

c. Prisoner letters containing accusations, charges, or complaints shall be forwarded through the proper channels to the official who has the authority to correct the complaint or alleged wrong. Petitions or writs for release addressed to the proper authority shall be forwarded through normal mail channels.

d. The receipt of packages and articles other than correspondence may be authorized by the commanding officer.

e. Reasonable postage shall be furnished as a health and comfort item.

4. Telephone and Telegraph. Telegraphic communications and telephone calls to or by prisoners, at no expense to the Government, may be permitted when in the best interest of a prisoner's morale or to aid in the resolution of immediate problems. The number and length of calls are determined by the custodial officer or his or her representative. Telephone calls may be monitored unless directed to the prisoner's attorney or a clergyman.

5. Media Interviews. Personal interviews and telephonic communications between prisoners and media representatives are not authorized. Written communication is permitted subject to this Directive and Service regulations.

P. AMERICAN RED CROSS

The American Red Cross shall be used in accordance with existing agreements (DoD Directive 1330.5 (reference (f))) as the primary agency to furnish information concerning the prisoner's community and family background.

Q. PERSONNEL REQUIREMENTS FOR CONFINEMENT FACILITIES

The special nature of duty in confinement facilities requires that the following criteria be applied to the selection, assignment, and training of staff members:

1. Categories of Personnel. Personnel in the following categories are required to support the confinement facility:

a. Custodial. Personnel trained specifically in the security and control of prisoners.

b. Religious. Chaplaincy personnel responsible to the facility commander for providing religious instruction, guidance, and services for prisoners.

c. Medical and Dental. Health care providers responsible to the facility commander for the health of prisoners and the sanitary conditions of the facility.

d. Neuropsychiatric. Mental health care professionals such as psychiatrists, clinical psychologists, psychiatric social workers, and psychiatric social work technicians qualified in the identification and care of prisoners presenting special personality problems or psychiatric disorders.

e. Correctional treatment personnel

(1) Classification specialists. Supervisors and interviewers trained in compiling case histories and other background data required to plan confinement programs for individual prisoners and provide the basis for recommendations as to clemency, restoration to duty, or other appropriate disposition.

(2) Training specialists. Supervisor and instructor personnel qualified to conduct training programs and vocational training projects.

(3) Employment specialists. Maintenance, construction, and industrial personnel qualified to conduct work programs and vocational training projects.

(4) Counselors. Specialists with training and experience in prisoner counseling.

2. Criteria for Selection of Personnel

a. Personnel assigned to key positions involving confinement facility administration and operation should have a minimum of 2 years of active duty, or have attained a comparable level of military experience and maturity, or such level of professional qualifications through indoctrination and training.

b. All confinement facility personnel shall meet the following criteria:

(1) Be over 20 years old and possess a high degree of maturity and emotional stability.

(2) Have no record of criminal conviction by civil or military authorities during the current term of service.

3. Training of Personnel. Correctional facility staff members must be specially trained or experienced in the control, management, and correctional treatment of prisoners. Sources of military corrections personnel include:

- a. Graduates of civilian or military corrections training programs.
- b. Former corrections officers, employees, or specialists at military or civilian confinement facilities.

4. Assignment of Personnel. Personnel should be assigned to military correctional facilities for normal tours of duty. Transient personnel shall not be" used.

R. COMPUTERIZED CRIMINAL HISTORY FILE

1. **Commanding** officers of confinement facilities shall provide applicable prisoner information to the Federal Bureau of Investigation (FBI) for inclusion in the computerized Criminal History File (III) of the National Crime Information Center (NCIC). Standard FBI forms shall be used to provide the required information.

2. Information shall be provided on convicted prisoners who meet all of the following criteria:

- a. They must be sentenced to dismissal or punitive discharge; and
- b. Convicted of an offense that is not "military-unique" (e.g., unauthorized absence, disobedience) or disrespect) and that carries a Possible sentence of confinement of 1 year *or* more.

SAMPLE FORMAT OF A SEMIANNUAL CONFINEMENT REPORT

Reporting Period: \_\_\_\_\_

Part I: Confinement, Sentence, and Offense Data

NUMBER OF CONFINEMENT FACILITIES:

(Number with design capacity of 10 or more \_\_\_\_\_)

NUMBER OF CONFINEMENT SPACES : \_\_\_\_\_

NUMBER OF CONFINEMENTS DURING REPORTING PERIOD :

<u>RACE</u>	<u>ENLISTED</u>		<u>OFFICER</u>	
	<u>MALE</u>	<u>FEMALE</u>	<u>MALE</u>	<u>FEMALE</u>
<b>Caucasoid</b>	—	—	—	.
Negroid or African	—	.	—	—
American Indian	—	—	—	—
Asian or Mongoloid	—	—	—	—
Other	—	—	—	—
Unknown	—	—	—	—

REASON FOR CONFINEMENT

Pretrial Confinement	—	—	—	—
<b>Summary Court-Martial</b>	—	—	—	.
Special Court-Martial	—	.	—	—
General Court-Martial	—	—	—	—

TOTAL NUMBER OF CONFINEMENTS FOR REPORTING PERIOD: \_\_\_\_\_

AVERAGE DAILY POPULATION FOR REPORTING PERIOD : \_\_\_\_\_

SENTENCE LENGTH AT TIME OF CONFINEMENT:

1 DAY TO 6 MOS . \_\_\_\_\_  
6 MOS, 1 DAY TO 1 YR \_\_\_\_\_  
1 YR, 1 DAY TO 3 YRS \_\_\_\_\_  
3 YRS, 1 DAY TO 5 YRS \_\_\_\_\_  
5 YRS, 1 DAY TO 10 YRS \_\_\_\_\_  
OVER 10 YRS , EXCLUDING LIFE \_\_\_\_\_  
LIFE \_\_\_\_\_  
DEATH \_\_\_\_\_

TYPES OF CRIMES: (report by primary offense)

MILITARY (UA, DESERTION, DISRESPECT, ETC. ) \_\_\_\_\_

CRIMES AGAINST PERSON (ASSAULT , ROBBERY, SEX CRIMES, ETC. ) \_\_\_\_\_

CRIMES AGAINST PROPERTY (LARCENY , THEFT, BAD CHECKS, ETC. ) \_\_\_\_\_

DRUG OFFENSES \_\_\_\_\_

SAMPLE FORMAT OF A SEMIANNUAL CONFINEMENT REPORT (continued)

Part II: Clemency and Parole Data

RESTORATION

CONSIDERED \_\_\_\_\_

GRANTED \_\_\_\_\_

CLEMENCY

CONSIDERED \_\_\_\_\_

GRANTED \_\_\_\_\_

PAROLE

CONSIDERED \_\_\_\_\_

GRANTED \_\_\_\_\_

(NOTE: All figures include actions taken on appeal. )

NUMBER ON PAROLE AT CLOSE OF REPORT PERIOD: \_\_\_\_\_